

BEFORE THE STATE TAX APPEAL BOARD

OF THE STATE OF MONTANA

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|                             |   |                            |
|-----------------------------|---|----------------------------|
| CHRISTOPHER LANCE RICHARDS, | ) |                            |
|                             | ) | DOCKET NO.: PT-1997-76     |
| Appellant,                  | ) | PT-1997-77                 |
|                             | ) | PT-1997-78                 |
| -vs-                        | ) |                            |
|                             | ) |                            |
| THE DEPARTMENT OF REVENUE   | ) | FINDINGS OF FACT,          |
| OF THE STATE OF MONTANA,    | ) | CONCLUSIONS OF LAW,        |
|                             | ) | ORDER and OPPORTUNITY      |
| Respondent.                 | ) | <u>FOR JUDICIAL REVIEW</u> |

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The above-entitled appeals came on regularly for hearing on the 6th day of August, 1997, in the City of Missoula, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law.

The taxpayer, represented by John Richards, presented testimony in support of the appeals. The Department of Revenue (DOR), represented by appraiser Ronald Pierson, presented testimony in opposition to the appeals.

Testimony was presented, exhibits were received, a time scheduled for the receipt of post hearing submittal, and the Board then took the appeals under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties,

finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of these appeals and which is described as follows:

PT-1997-76

Land only described as Lot 117, Phase IV of the Double Arrow Ranch, Missoula County, Montana.  
DOR I.D. #1496707

PT-1997-77

Land only described as Lot 143, Phase IV of the Double Arrow Ranch, Missoula County, Montana.  
DOR I.D. #1499203

PT-1997-78

Land only described as Lot 114, Phase IV of the Double Arrow Ranch, Missoula County, Montana.  
DOR I.D. #1496409

3. For the 1997 tax year, the DOR appraised the subject property as:

PT-1997-76        \$15,675

PT-1997-77        \$23,338

PT-1997-78        \$15,952

4. The taxpayer appealed to the Missoula County Tax Appeal Board requesting a reduction in value for the properties to:

PT-1997-76        \$9,900

PT-1997-77        \$9,000

PT-1997-78        \$9,000

5. The County Board adjusted the values on each of the land parcels under appeal to:

PT-1997-76        \$12,000

PT-1997-77        \$10,500

PT-1997-78        \$10,300

6. The taxpayer then appealed those decisions to this Board for the reasons that "Taxes only changed \$.91 on lot 117, \$1.83 on lot 114, \$5.03 on lot 143", and "Valuation more than pd".

7. The DOR did not appeal the decisions of the local tax appeal board.

#### TAXPAYER'S CONTENTIONS

The taxpayer testified that two of the lots are contiguous and the third lot #143 is across the road and approximately 300 feet from the other two. The taxpayer is seeking the purchase price paid for these lots, each from a different seller. Mr. Richards testified that the sellers were not known to him prior to the transactions.

Mr. Richards presented a copy of the closing statement for lot #117 (Ex 2), a copy of the buy/sell agreement for lot #143 (Ex 3), and copies of the buyer's closing statement and the buy/sell agreement (Exs 4,5) for lot #114.

He stated that the sales were not "fire sales". The

properties were all listed with realtors, and advertised as being for sale. The purchases occurred over a period of a couple of years. Mr. Richards is also the owner of lot #257 which he has owned for several years. He was the project manager on this subdivision when it was originally developed.

His father was a principal in the development of the subdivision but sold his interest in 1978.

Mr. Richards stated that there are variations in the physical characteristics of the lots in this subdivision. Some are swampy and have septic restrictions, so the lots cannot be "given away." There are lots near the highway that are level, and there are some "real prime" building sites on the top of the mountain with panoramic views and a two acre lot sells for \$30,000 to \$40,000. Mr. Richards questioned the comparability to the subject lots of the lots presented by the DOR at the local board hearing. He stated that the problems of the subject lots do not exist on those lots presented by the DOR as comparable.

Mr. Richards testified that the market for land in the Seeley Lake area has gone down recently. He characterized the values as having taken a big jump in the early 1990's and since then values have retracted, sales have slowed down, and values generally have gone down. He equated the increase in the market to the showing of the movie "A River Runs Through

It", with the market decline following because of, in his opinion, the winters experienced in Seeley Lake.

He questioned that the "phase-in" of values that have been "over priced" does not reflect the accurate appraised value now. He was able to recall the value of lot 114 for 1996 as \$9,000, lot 117 was \$11,389, and lot 143 was \$12,103. He is aware that the "phase-in" provisions of the legislation that required it, is the subject of a legal action.

Mr. Richards addressed the characteristics of the lots by describing them as having steep access, requiring extensive road building improvement, and earth fill. It is his opinion that it is because of these problems that the former owners sold the property and the problems are reflected in the price they sold for. He agreed there are sales of lots in this subdivision that are for more money than he paid for these lots, but not all the lots have the same access problems. Utilities are available to the lots but are not installed to the lots.

#### DOR CONTENTIONS

Mr. Pierson provided the property record cards for the subject lots.(Exs A, B, C) He also presented a copy of a map indicating the location of the lots and sales of lots near the subject properties. (Ex D) Exhibit E is a copy of the land value model for the lots in the neighborhood in which the

properties are located. Mr. Pierson explained how the DOR arrived at the market derived value for these lots. The sales listed on exhibit E are all vacant land sales, according to Mr. Pierson. He stated that the DOR physically inspected the lots to take into consideration characteristics that would impact the value. He pointed out that the DOR is "locked in" to its valuation date of 1-1-96.

Through a posthearing summittal Mr. Jim Fairbanks, DOR Region 3 Manager, responded to questions concerning the Computer Assisted Land Pricing(CALP) models that were used to value these lots. He provided two separate models that indicate one is to be used on lots considered to be steep or sloping, and the other for lots considered predominantly level.

He explained that these lots have been valued using both of these models by applying model 24 (for level lots) to lot #143 and model 24G (for steep or sloping lots) to lots 114 and 117.

The base rate used for one acre in model 24 is \$18,300 and the base rate for one acre in Model 24G is \$14,500, a reduction made in recognition of the lower value indications. The adjustment rate for the lots that are larger than one acre is also modified from \$2,200 per acre in Model 24 to \$925 in Model 24G.

#### BOARD'S DISCUSSION

The raising of the issue of the "phase-in" provisions

of SB-195 by the taxpayer in this case is in addition to the issue of value as presented on the appeal forms. At the hearing before this Board, the Board stated to the parties that the SB-195 issue is bifurcated from this matter as the Board has previously ruled on that issue, and the Board would only rule on the value issues raised.

The taxpayer is seeking to have the actual transaction value adopted as the value for taxation purposes on these lots. It is important to recognize that the DOR picture of value is set as of January 1, 1996. The map presented by the DOR at the hearing (Ex D) would indicate that there has been a downward trend, at least in the value of two of the subject lots. Lot 114 sold for \$12,000 in May of 1994 and then to Mr. Richards in April of 1995 for \$9,295. Exhibit D also indicates lot 117 sold for \$13,500 in September of 1995 for \$13,500 and Mr. Richards purchased lot 117 in August of 1997 for \$10,304. Lot 143 is shown as having sold for \$8,500 in August of 1992, and Mr. Richards purchased the lot in August of 1997 for \$9,000 which is not a large market change in a five year period. Two of Mr. Richards purchases would have been within the time frame which the DOR used to determine land values, and the third had not yet occurred. The sales of lots 114 and 117 are not included in the model developed to value lots in that neighborhood. Why they were not included is not



explained by the DOR, but the testimony at the hearing before this Board was that they were not considered to be non-arm's-length transactions. Had they been included, the impact on the entire number of sales would not be large in the overall value indication results.

Based on the evidence and testimony presented to the Board, it is the opinion of the Board that there is not sufficient evidence to substantiate the position that the decisions of the Missoula County Tax Appeal Board are in error, and these appeals shall be denied. The DOR has recognized there is a difference of value for lots in this subdivision depending on the characteristics of the lots, and the decisions made by the local board have recognized a further reduction in value based on the evidence presented to it.

#### CONCLUSIONS OF LAW

1. 15-8-111, MCA. **Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject properties shall be entered on the tax rolls of Missoula County by the assessor of that county at the 1997 tax year values of \$10,300 for lot 114, \$12,000 for lot 117, and \$10,000 for lot 143 as determined by the Missoula County Tax Appeal Board.

Dated this 17th of December, 1998.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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PATRICK E. McKELVEY, Chairman

( S E A L )

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GREGORY A. THORNQUIST, Member

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LINDA L. VAUGHEY, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.